UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,166	07/12/2004	Albert Maria Arnold Rijkaert	2069.055US1	5382

21186   7590   06/25/2009
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TESLOVICH, TAMARA

ART UNIT	PAPER NUMBER
2437	

NOTIFICATION DATE	DELIVERY MODE
06/25/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _06 April 2009_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-20_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to Applicant's Remarks and Amendments filed April 6, 2008.

Claims 1 and 12 are amended.

Claims 16-20 are newly added.

Claims 1-20 are pending and herein considered.

Response to Arguments

Applicant's arguments filed April 6, 2009 have been fully considered but they are not persuasive.

Applicant's amendments to claims 12 serve to overcome the Examiner's previously set forth 35 USC 112 rejections of claims 12-15. As such, those rejections have been withdrawn.

In response to Applicant's first set of arguments concerning Candelore's alleged failure to teach or suggest "wherein each of the entitlement control messages is linked to a respective time stamp, the respective time stamp associated with a time-stamp value *indicative of a time* at which the entitlement control messages linked to the time-stamp was distributed" as claimed in claim 1, the Examiner respectfully disagrees. The Examiner would like to begin by drawing attention to column 2, lines 24-28 wherein Candelore generally attributes to his system a series of copy management commands that are well known in the art, including but not limited to those concerning specific

periods of time, duration, or number of viewings.   Throughout his specification,

Candelore provides for situations in which particular ECMs may be used by particular

individuals during particular time periods. For example, in column 9 lines 49-62

Candelore discloses the sending of keys within ECMs, keys which correspond to a

particular time period ("current") and a system in which a past key can be calculated

based upon knowledge of the time at which it was created and the knowledge of the

current key. In column 10, namely lines 16-21 he goes on to teach how a time period is

assigned to each key, beginning with the first key in the series and ending with the last

key, such that each key may be used to descramble content during the time period

assigned to it. Candelore's disclosure of time-stamped keys, i.e. keys that relate to a

particular period of time and which will expire and be replaced by new keys

corresponding to a new time, anticipates Applicant's wherein each of the ECMs is linked

to a respective time stamp, the respective time stamp associated with a time-stamp

value indicative of a time at which the ECM linked the time-stamp was distributed.

In response to Applicant's next set of arguments concerning Candelore's alleged

failure to teach or suggest "an EMM enables decryption of the units of information that

are linked to time-stamps with time stamp values in that range" as claimed in claim 1,

the Examiner respectfully disagrees. In response to applicant's argument that the

references fail to show certain features of applicant's invention, it is noted that the

features upon which applicant relies (i.e., EMM enables decryption of the units of

information that are linked to time-stamps with time stamp values in that range) are not

recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re*

Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Upon a close

examination of the claim it appears as if Applicant is in fact referring to his limitation

calling for "entitling the secure device to enable decryption of the units of information

that are linked to time-stamps with time stamp values in that range" wherein that

entitlement is subsequent to sending an entitlement management message to the

secure device, that message including a specification of a range of time-stamp values.

Drawing attention to line 66 of column 11 thru line 5 of column 2, Candelore teaches the

use of EMM to track a user's entitlement history, this history which happens to be

delivered along with a key and entitlement information. Each bit in this entitlement time

history field represents whether or not a customer was subscribed or authorized for a

service f*or one or more discrete time periods*. Reading further, in lines 23-26 and 30-41

in column 12 again, Candelore goes on to discuss how the entitlements granted to a

user are for one or more time periods, so that the user is entitled to view the content of

programs delivered during one or more periods, and that the user may select a stored

program that was delivered or transmitted during a previous time, i.e. a range with a

starting point prior to a time value corresponding to when the EMM was sent. This

selective enablement of past stored programs as disclosed throughout the reference

and specifically provided for in lines 14-15 of column 13, anticipates Applicant's claims.

Insofar as Applicant's remarks concerning independent claim 10 are premised on

those given above for to claim 1, the Examiner respectfully maintains her rejection of

claim 10 for substantially the same reasons as given above for claim 1.

In response to Applicant's next set of arguments concerning Thexton's alleged
failure to teach or suggest "a secure device that maintains and updates a current time
value corresponding to the time values of the time stamps as they are distributed as a
function of time" as claimed in claim 4, the Examiner respectfully disagrees. Thexton is
concerned with updating means for updating data stored in response to broadcast
events and synchronizing means for synchronizing the updated data in real time cross
the different systems in order to ensure correct referencing and changes in scheduling.
Thexton's automatic file server (AFS) when implemented within Candelore's method
and apparatus for accessing stored digital programs, provides for a system in which
information concerning recording may be kept secure and updated at all time, allowing
for users to view present and past content with the appropriate rights to do so.

It is for the reasons presented above that the Examiner maintains her rejection of
claims 1-15, included below in an amended form to reflect Applicant's amendments.

Newly added claims 16-20 have been rejected below as well.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 5-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Candelore (US 6,363,149).

Regarding claim **1,** Candelore discloses a method of distributing units of encrypted information and providing conditional access to the units using a secure device capable of selectively enabling decryption of said units, the method comprising:

distributing a stream comprising the units of information successively, the stream including a plurality of entitlement control message, wherein each of the entitlement control messages is linked to a respective time-stamp, the respective time stamp associated with a time-stamp value indicative of a time at which the entitlement control message linked to the time stand was distributed (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15);

sending an entitlement management message to the secure device, the entitlement message including a specification of a range of time-stamp values and entitling the secure device to enable decryption of the units of information that are linked to time-stamp with time stamp values in that range (col. 11, lines 34-49), wherein the range has a starting point prior to a time value corresponding to when the entitlement management message is sent (col. 11, lines 1-15; col. 10, lines 55-67; col. 9, lines 49-67) a memory card (col. 6, lines col. 7, lines 13-34).

Regarding claim **2**, Candelore discloses the method wherein the

stream is distributed to a plurality of subscribers (col. 12, lines 59-64); each with an own

secure device is an intrinsic property of the claimed invention, as without the secure

device the content cannot be rendered to the customers (col. 6, lines 52-65; col. 9, lines

1-7); and wherein the entitlement management message is one of a plurality or

respective entitlement management messages, each sent receivable for the secure

device of a respective one of the subscribers (col. 7, lines 24-35), each entitlement

management message including a specification of a respective range of time-stamp

values (col. 11, lines 34-49), including;

receiving subscriber dependent information (col. 12, lines 54, lines 54-64);

setting a distance of said starting point to said time value in each of the

respective ranges according to a respective distance value (col. 12, lines 60, 64; col. 10,

lines 32-42 and selecting each respective distance value from a set of two or more

distance values, dependent on the subscription information for the subscriber for whose

secure device the entitlement management message is receivable (col. 9, lines 35-62;

see figure 5A of the drawings).

Regarding **claim 3**, Candelore discloses the method wherein the entitlement

management message is one of a series of successive ones entitlement management

messages, each specifying its own range so that said slides with time so that the stating

point substantially has a time independent distance to said time value (col. 4, lines 15-

18; col. 9, lines 25-29; col. 11, lines 34-49; col. 10, lines 22-53).

Regarding **claim 5**, Candelore discloses the method wherein the range ends substantially before the time value corresponding to when the entitlement message is sent (col. 11, lines 34-49).

Regarding **claim 6**, Candelore discloses the subscription information comprising, for one of the subscribers, a selection of a further range ending prior to the time value of the time stamps distributed at a time of receiving said selection, the method comprising sending a further entitlement message in addition to said entitlement messages, the further entitlement management specifying the further range and entitling the secure device to enable decryption of units of information that are linked to time-stamps with values in that further range (col. 10, lines 42-67).

Claims 7-8 correspond to a system employing the method of claims 1-2 and are rejected accordingly.

Regarding **claim 9**, Candelore discloses an input for receiving entitlement management messages (col. 4, lines 36-65); a memory for maintaining a current time count (col. 6, lines 52-67; col. 7, lines 1-12); a management unit for selectively enabling decryption of the information units under control of the entitlement management messages that includes a specification of a range of time-stamp values linked to entitlement control messages included in the units of information, for which the secure device has to enable decryption, wherein starting point for the range initially has a time value prior to the current time count (col. 4, lines 35-67: col. 6, lines 52-64; col. 10, lines 33-43).

Regarding **claim 10**, Candelore discloses an information distribution device arranged to distribute a stream of successive units of encrypted information to a secure device, each unit linked to a respective time-stamp; the device comprising;

a transmitting unit for transmitting the stream, the stream including a plurality of entitlement control messages, wherein each for the entitlement control messages is linked to a respective time-stamp, the respective time stamp associated with a timestamp value indicative of a time at which the entitlement control message linked to the time-stamp was transmitted (col. 10, lines 55-67, lines 33-42; col. 11, lines 1-15);

the transmitting unit for transmitting an entitlement management message including a specification of a range of time-stamp values the entitlement management message entitling the secure device to enable decryption of units of information that are linked to time-stamps with values in that range so that the range initially has a starting point prior to a time value corresponding to when the entitlement management message is sent (col. 10, lines 5-27; col. 4, lines 35-67: col. 6, lines 52-64; col. 10, lines 33-43).

Regarding **claim 11**, Candelore discloses the information distribution device according to claim 10, arranged to distribute the stream to a plurality of subscribers (col. 12, lines 59-64); each having a respective secure device (col. 6, lines 52-65; col. 9, lines 1-7) the entitlement management message being one of a plurality of entitlement management messages for reception by respective ones of the secure devices (col. 7, lines 24-35), each entitlement management message specifying a respective range of time-stamp values (col. 11, lines 34-49), comprising; an input for receiving subscriber dependent information (col. 12, lines 54, lines 54-64) means for setting a distance of

said starting point to said time value in each of the respective ranges according to a

respective distance value (col. 12, lines 60, 64; col. 10, lines 32-42), the means

selecting each respective distance value from a set of two or more distance values,

dependent on the subscription information for the subscriber for whose secure device

the entitlement management message is receivable (col. 9, lines 35-62; see figure 5A of

the drawings).

Regarding **claim 12**, Candelore discloses wherein sending an entitlement

message includes entitling the secure device to enable decryption of units of information

that are linked to time-stamps with values with the starting points at least far enough

into the past to contain at least a television program or a meaningful part of such a

program prior to the time value of a current time (col. 10, lines 55-67, lines 33-42; col.

11, lines 1-15).

Regarding **claim 13**, Candelore discloses wherein the starting point is at least

one or more hours prior to the time value of the current time (col.11 lines 1-15).

Regarding **claim 14**, Candelore discloses wherein the starting point is at least

one day prior to the time value of the current time (col.11 lines 1-15).

Regarding **claim 15**, Candelore discloses wherein sending an entitlement

message includes entitling the secure device to enable decryption of units of information

that are linked to time-stamps with values with the starting points at least sufficiently far

into the past to contain at least a television program (col. 10, lines 55-67, lines 33-42;

col. 11, lines 1-15) and at least one week prior to the time value of the time stamps

distributed concurrent with the entitlement management messages (col.11 lines 1-15).

Regarding **claim 16**, Candelore discloses wherein the range of time-stamp

values is defined relative to the current time of day (col.2 lines 56-67).

Regarding **claim 17**, Candelore discloses wherein said range of time-stamp

values is a sliding window (figure 9B "Jan 1999 to June 1999).

Regarding **claim 18**, Candelore discloses wherein said range of time-stamp

values is measured relative to a current time of day (col.2 lines 56-67).

Regarding **claim 19**, Candelore discloses wherein the management unit is

further to determine whether a received time stamp is within the range of values relative

to the current time of day (col.2 lines 56-67).

Regarding **claim 20**, Candelore discloses a system for use in an information

distribution system that provides conditional access to a stream of information units

linked to time stamp, comprising: a plurality of modules, each module comprising

instructions retained on at least one machine-readable storage medium, that when

executed by a machine perform identified operations, wherein the modules comprise

(col. 6, lines 52-65; col. 9, lines 1-7; col. 12, lines 59-64): an input for receiving

entitlement management messages and a memory for maintaining a current time count

(col. 6, lines 52-65; col. 9, lines 1-7; col. 12, lines 59-64); a management unit for

selectively enabling decryption of the information units under control of the entitlement

management messages, the management unit being arranged to implement one of the

entitlement management messages that includes a specification of a range of time-

stamp values linked to entitlement control messages included in the units of information,

for which the secure device has to enable decryption, wherein a starting point for the

range initially has a time value prior to the current time count (col. 11, lines 34-49),

wherein each entitlement management message specifies its own range so that said

range of time-stamp values slides with time so that the starting point has a distance to

said time value (col. 11, lines 1-15; col. 10, lines 32-42 and 55-67; col. 9, lines 49-67;

col. 12, lines 60, 64) .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Candelore (US 6,363,149) and further in view of Thexton et al. (US 6,772,435).

Regarding **claim 4**, Candelore discloses adjusting said starting point to a time

independent distance before the current time value, the secure device deriving the time

independent distance from said one of the entitlement management unit at least for a

series of successive current time value (col. 10, lines 60-67; col. 13, lines 1-15; col. 11,

lines 34-49).

However, Candelore does not disclose a secure device that maintains and updates a current time value corresponding to the time value of the time stamps as they are distributed as a function of time.

Thexton discloses a synchronizer to update current time value corresponding to the time value of the time stamps as they are distributed as a function of time (col. 1, lines 55-60). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Candelore to include the use of a synchronizer in order to update the current time, such that subscriber may access past broadcast content at a later date.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Teslovich whose telephone number is (571)272-4241. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tamara Teslovich/
Examiner, Art Unit 2437

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2437